



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

[NRC-2014-0087]

**Applications and Amendments to Facility Operating Licenses and Combined Licenses  
Involving Proposed No Significant Hazards Considerations and Containing Sensitive  
Unclassified Non-Safeguards Information and Safeguards Information and Order  
Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information  
and Safeguards Information**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of nine amendment requests. The amendment requests are for Brunswick Steam Electric Plant, Units 1 and 2; Crystal River Unit 3 Nuclear Generating Plant; Shearon Harris Nuclear Power Plant, Unit 1; H. B. Robinson Steam Electric Plant, Unit 2; Indian Point Nuclear Generating Units 1, 2, and 3; James A. FitzPatrick Nuclear Power Plant (two separate amendment requests); Oyster Creek Nuclear Generating Station; and Browns Ferry Nuclear Plant, Unit 1. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI).

**DATES:** Comments must be filed by **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]**. A request for a hearing must be filed by **[INSERT DATE 60 DAYS FROM DATE OF PUBLICATION]**. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI and/or SGI is necessary to respond to this notice must request document access by **[INSERT DATE 10 DAYS FROM DATE OF PUBLICATION]**.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0087**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Office of Administration, Mail Stop: 3WFN-06-44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

**FOR FURTHER INFORMATION CONTACT:** Shirley J. Rohrer, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001; telephone: 301-415-5411, e-mail: [Shirley.Rohrer@nrc.gov](mailto:Shirley.Rohrer@nrc.gov).

**SUPPLEMENTARY INFORMATION:****I. Accessing Information and Submitting Comments****A. Accessing Information.**

Please refer to Docket ID **NRC-2014-0087** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2014-0087**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**  
You may access publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "**ADAMS Public Documents**" and then select "**Begin Web-based ADAMS Search.**" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if the document is available in ADAMS) is provided the first time that the document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

## B. Submitting Comments.

Please include Docket ID **NRC-2014-0087** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

## II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI and/or SGI.

**III. Notice of Consideration of Issuance of Amendments to  
Facility Operating Licenses and Combined Licenses, Proposed No Significant  
Hazards Consideration Determination, and Opportunity for a Hearing**

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the *Federal Register* a notice of issuance. Should the Commission make a final No Significant

Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

**A. Opportunity to Request a Hearing and Petition for Leave to Intervene.**

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other

interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take

place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

## **B. Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.



Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any

others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding

officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)-(iii).

For further details with respect to these amendment requests, see the applications for amendment which are available for public inspection at the NRC's PDR, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. Publicly-available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS,

contact the PDR's Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

Duke Energy Progress, Inc., Docket Nos. 50-325 and 50-324; Duke Energy Florida, Inc., Docket No. 50-302; Duke Energy Progress, Inc., Docket Nos. 50-400 and 50-261; Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina; Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida; Shearon Harris Nuclear Power Plant, Unit 1, Wake County, North Carolina; and H. B. Robinson Steam Electric Plant, Unit 2, Darlington County, South Carolina

Date of amendment request: December 19, 2013, as supplemented by letter dated March 31, 2014 (publicly-available versions are available in ADAMS under Accession Nos. ML13357A189 and ML14092A293).

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The license amendment request pertains to the Cyber Security Plan (CSP) implementation schedule change in the completion date for Milestone 8. Milestone 8 pertains to the date that full implementation of the CSP for all safety, security, and emergency preparedness functions will be achieved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the Cyber Security Plan implementation schedule for Milestone 8 does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in

which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the Cyber Security Plan implementation schedule for Milestone 8 does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change revises the Cyber Security Plan implementation schedule. Because there is no change to these established safety margins as result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, Charlotte, North Carolina 28202.

NRC Branch Chief: Jessie F. Quichocho.

Entergy Nuclear Operations, Inc., Docket Nos. 50-003, 50-247, and 50-286, Indian Point Nuclear Generating Units 1, 2, and 3, Westchester County, New York

Date of amendment request: January 30, 2014. A publicly-available version is available in ADAMS under Accession No. ML14043A092.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The amendments would revise the Indian Point Energy Center Cyber Security Plan (CSP) Implementation Schedule Milestone 8 full implementation date and revise the existing operating license Physical Protection license condition. The CSP Milestone 8 full implementation date would be changed from December 15, 2014, to June 30, 2016.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant

modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits, specified in the technical specifications. The proposed change to the CSP Implementation Schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff

proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Benjamin G. Beasley.

Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: August 30, 2013. A publicly-available version is available in ADAMS under Accession No. ML13248A517.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The amendment would modify the operating license, pursuant to Section 161A of the Atomic Energy Act of 1954, as amended, to permit the licensee's security personnel to possess and use weapons, devices, ammunition, or other firearms, notwithstanding state, local, and certain federal firearms laws that may prohibit such use. The NRC refers to this authority as "stand-alone preemption authority." The licensee is seeking stand-alone preemption authority for standard weapons presently in use at the James A. FitzPatrick Nuclear Power Plant (JAFNPP) facility in accordance with the JAFNPP security plans. The weapons that are the subject of this amendment request do not include enhanced weapons.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?



The LAR [license amendment request] does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 [Attachment 1, which is included in the LAR, is security-related and is not publicly available] and the use of the subject weapons is already covered under the existing JAFNPP security plans.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The LAR does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 and the use of the subject weapons is already covered under the existing JAFNPP security plans.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and has no impact on the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The LAR does not require any plant modifications, alter the plant configuration, require new plant equipment to be installed, alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change to JAFNPP's license will not result in any actual changes at the facility. JAFNPP security personnel already use the weapons described in Attachment 1 and the use of the subject weapons is already covered under the existing JAFNPP security plans. Plant safety margins are established through Limiting Conditions for Operation, Limiting Safety System Settings and Safety limits specified in the Technical Specifications. Because there is no change to these established safety margins, the proposed change does not involve a significant reduction in a margin of safety.

The proposed change adds a sentence to the JAFNPP license to reflect the Section 161A preemption authority granted by the Commission. The change is administrative and does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Benjamin G. Beasley.

Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. Fitzpatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: January 31, 2014. A publicly-available version is available in ADAMS under Accession No. ML14036A363.

Description of amendment request: **This amendment request contains sensitive**

**unclassified non-safeguards information (SUNSI).** The amendment would revise the James

A. FitzPatrick Nuclear Power Plant Cyber Security Plan (CSP) Implementation Schedule

Milestone 8 full implementation date and revise the existing operating license Physical

Protection license condition. The CSP Milestone 8 full implementation date would be changed

from December 15, 2014, to June 30, 2016.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require

any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the CSP Implementation Schedule is administrative in nature. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: December 19, 2013 (Publicly-available portion is available in ADAMS under Accession No. ML13358A245), as supplemented by letter dated January 31, 2014 (ADAMS Accession No. ML14035A264).

Description of amendment request: **This amendment request contains safeguards information (SGI).** The amendment would revise Renewed Facility Operating License No. DPR-16 for Oyster Creek Nuclear Generating Station (OCNGS). Specifically, the proposed changes involve instituting additional protective measures strategies at OCNGS related to vitalization of certain portions of the Reactor Building. The proposed changes to implement the use of an “*alternative measure*” requires prior NRC review and approval under 10 CFR 73.55(r).  
Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not increase the probability or consequences of an accident. The proposed changes do not involve the modification of any plant equipment or affect plant operation. The proposed changes will have no impact on any safety-related Structures, Systems, and Components (SSC).

The proposed amendment incorporates the use of an “*alternative measure*” for implementing the applicable requirements in 10 CFR 73.55(b). Instituting the “*alternative measure*” does not involve any modifications to safety-related SSC. Rather, the “*alternative measure*” describes how the applicable requirements of 10 CFR 73.55(b) are to be implemented in order to ensure a comparable level of safety to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. In addition, the “*alternative measure*” describes how the required physical protection program elements will be implemented to protect against the design basis threat of radiological sabotage and shall establish, maintain, and implement an effective insider mitigation program. Instituting the

proposed “*alternate measure*” will not alter previously evaluated Updated Final Safety Analysis Report (UFSAR) design basis accident analysis assumptions, add any accident initiators, or affect the function of the plant safety-related SSCs. The proposed changes do not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. No plant modifications or changes are considered necessary at this time in support of implementation of the proposed “*alternate measure*” as described in this license amendment request. However, in the event that future modifications or changes are deemed appropriate to ensure effective protective strategies in maintaining vitalization of the [Reactor Building] RB, they would be evaluated per 10 CFR 50.59 to determine if a license amendment is required. Any changes would also be evaluated per 10 CFR 50.54(p) to determine if there is a decrease in the safeguards effectiveness in the site Security Plan. Prior NRC approval would be obtained if required by these evaluations.

Therefore, the proposed changes involving implementation of the described “*alternative measure*” do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on the design, function, or operation of any plant SSC. The proposed changes do not affect plant equipment or accident analyses.

The proposed changes to institute the use of an “*alternative measure*” for implementing the applicable requirements in 10 CFR 73.55(b) provide assurance that safety-related SSCs are adequately protected. Implementation of the proposed “*alternative measure*” and inclusion of the associated elements in the Security Plan and in other security-related documentation when approved do not result in the need for any new or different UFSAR design basis accident analysis. The proposed changes do not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. As a result, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes to institute the “*alternative measure*.”

Therefore, the proposed changes involving implementation of the described “*alternative measure*” do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety are unaffected by the proposed changes involving implementation of the “*alternative measure*.”

The margin of safety is associated with the confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation to the public. The proposed changes would not alter the way any safety-related SSC functions and would not alter the way the plant is operated. The proposed changes continue to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety. In addition, instituting the elements that comprise the “*alternative measure*” will continue to ensure that the required physical protection program elements will be implemented to protect against the design basis threat of radiological sabotage and shall continue to establish, maintain, and implement an effective insider mitigation program. The proposed changes do not introduce any new uncertainties or change any existing uncertainties associated with any safety limit. The proposed changes have no impact on the structural integrity of the fuel cladding, reactor coolant pressure boundary, or containment structure. The proposed changes would not degrade the confidence in the ability of the fission product barriers to limit the level of radiation to the public.

Therefore, the proposed changes involving implementation of the described “*alternative measure*” do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee’s analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Vice President and Deputy General Counsel, Exelon Generation Company LLC, 200 Exelon Way, Kenneth Square, Pennsylvania 19348.

NRC Branch Chief: Meena Khanna.

Tennessee Valley Authority (TVA), Docket No. 50-259, Browns Ferry Nuclear Plant (BFN),

Unit 1, Limestone County, Alabama

Date of amendment request: December 18, 2013. A publicly-available version is available in ADAMS under Accession No. ML13358A067.

Description of amendment request: **This amendment request contains sensitive unclassified non-safeguards information (SUNSI).** The proposed license amendment would revise the Technical Specifications (TSs) for Limiting Condition for Operation (LCO) 3.4.9, "RCS [Reactor Coolant System] Pressure and Temperature (P/T) Limits." TVA submitted this license amendment request to satisfy a commitment to prepare and submit revised BFN Unit 1, P/T limits prior to the start of the period of extended operation, as discussed in Section 4.2.5 provided in "Browns Ferry Nuclear Plant (BFN) - Units 1, 2 and 3 - Application for Renewed Operating Licenses," dated December 31, 2003 (ADAMS Accession No. ML040060359). Specifically, the proposed change replaces the current sets of TS Figures 3.4.9-1, "Pressure/Temperature Limits for Mechanical Heatup, Cooldown following Shutdown, and Reactor Critical Operations," and 3.4.9-2, "Pressure/Temperature Limits for Reactor In-Service Leak and Hydrostatic Testing." The figures proposed to be replaced consist of two sets of P/T limit curves, one set valid up to 12 effective full-power years (EFPYs) of operation and another set valid from 12 to 16 EFPYs of operation. The proposed change replaces the current curves with a set of figures valid for operation up to 25 EFPYs and another set valid for operation from greater than 25 EFPYs to less than 38 EFPYs.



Basis for proposed no significant hazards consideration determination: As required by 10 CFR

50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed changes are to accept operating parameters that have been approved in previous license amendments. The changes to P/T curves were developed based on NRC-approved methodologies. The proposed changes deal exclusively with the reactor vessel P/T curves, which define the permissible regions for operation and testing. Failure of the reactor vessel is not considered as a design basis accident. Through the design conservatisms used to calculate the P/T curves, reactor vessel failure has a low probability of occurrence and is not considered in the safety analyses. The proposed changes adjust the reference temperature for the limiting material to account for irradiation effects and provide the same level of protection as previously evaluated and approved.

The adjusted reference temperature calculations were performed in accordance with the requirements of 10 CFR Part 50, Appendix G using the guidance contained in Regulatory Guide (RG) 1.190, "Calculational and Dosimetry Methods for Determining Pressure Vessel Neutron Fluence (ADAMS Accession No. ML10890301)," to reflect use of the operating limits to no more than 38 Effective Full Power Years (EFPY). These changes do not alter or prevent the operation of equipment required to mitigate any accident analyzed in the BFN Final Safety Analysis Report. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are to accept operating parameters that have been approved in previous license amendments. The changes to P/T curves were developed based on NRC approved methodologies. The proposed changes to the reactor vessel P/T curves do not involve a modification to plant equipment. No new failure modes are introduced. There is no effect on the function of any plant system, and no new system interactions are introduced by this change. Therefore, the proposed

change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are to accept operating parameters that have been approved in previous license amendments. The changes to P/T curves were developed based on NRC approved methodologies. The proposed curves conform to the guidance contained in RG-1.190, and maintain the safety margins specified in 10 CFR Part 50, Appendix G.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, Tennessee 37902.

NRC Branch Chief: Jessie F. Quichocho.

### **Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation**

**Duke Energy Progress, Inc., Docket Nos. 50-325 and 50-324; Duke Energy Florida, Inc., Docket No. 50-302; Duke Energy Progress, Inc., Docket Nos. 50-400 and 50-261; Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina; Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida; Shearon Harris Nuclear Power Plant, Unit 1, Wake County, North Carolina; and H. B. Robinson Steam Electric Plant, Unit 2, Darlington County, South Carolina**

**Entergy Nuclear Operations, Inc., Docket Nos. 50-003, 50-247, and 50-286, Indian Point  
Nuclear Generating Units 1, 2, and 3,  
Westchester County, New York**

**Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. FitzPatrick  
Nuclear Power Plant,  
Oswego County, New York**

**Entergy Nuclear Operations, Inc., Docket No. 50-333, James A. Fitzpatrick  
Nuclear Power Plant,  
Oswego County, New York**

**Exelon Generation Company, LLC, Docket No. 50-219, Oyster Creek  
Nuclear Generating Station,  
Ocean County, New Jersey**

**Tennessee Valley Authority, Docket No. 50-259, Browns Ferry Nuclear Plant, Unit 1,  
Limestone County, Alabama**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A “potential party” is any person who intends to participate as a party by demonstrating standing and filing an admissible

contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland, 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are [Hearing.Docket@nrc.gov](mailto:Hearing.Docket@nrc.gov) and [OGCmailcenter@nrc.gov](mailto:OGCmailcenter@nrc.gov), respectively.<sup>1</sup>

The request must include the following information:

- (1) A description of the licensing action with a citation to this *Federal Register* notice;
- (2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);
- (3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and
- (4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who

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<sup>1</sup> While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding;<sup>2</sup> and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF-85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF-85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF-85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure website that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301-415-7000.<sup>3</sup>

(c) A completed Form FD-258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD-258 may be obtained by writing the

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<sup>2</sup> Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

<sup>3</sup> The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, by calling 1-630-829-9565, or by e-mail to [Forms.Resource@nrc.gov](mailto:Forms.Resource@nrc.gov). The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of \$238.00<sup>4</sup> to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF-85 or Form FD-258; however, all other requirements for access to SGI, including the need to know, are still applicable.

**Note:** Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address:

U.S. Nuclear Regulatory Commission  
ATTN: Personnel Security Branch  
Mail Stop TWFN-03-B46M  
11555 Rockville Pike  
Rockville, MD 20852

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<sup>4</sup> This fee is subject to change pursuant to the Office of Personnel Managements adjustable billing rates.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.<sup>5</sup>

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based

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<sup>5</sup> Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>6</sup> by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and

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<sup>6</sup> Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.



reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with:

(a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability

of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.<sup>7</sup>

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

IT IS SO ORDERED.

Dated at Rockville, Maryland, this 28<sup>th</sup> of April, 2014.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,  
Secretary of the Commission.

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<sup>7</sup> Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

**ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in this Proceeding**

Day	Event/Activity
0	Publication of <i>Federal Register</i> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.

Day	Event/Activity
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.